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An Act To Prevent Disclosure of Certain Identifying Information in Child Protective and Other Court Proceedings

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 4 MRSA §8-B is enacted to read:

§ 8-B. Rules governing nondisclosure of certain identifying information

1. Nondisclosure of certain identifying information. The Supreme Judicial Court may prescribe, repeal, add to, amend or modify rules or orders providing for a procedure in all courts through which a party is given the right to request that certain identifying information not be disclosed.

2. No contact order; allegation or pleading. Rules and orders developed pursuant to subsection 1 may allow:

A. A party or participant to notify the court in any case of the existence of any court orders in effect at the time of the proceeding that prohibit contact between the parties and participants; and

B. A party or participant to allege in an affidavit or a pleading under oath that the health, safety or liberty of the person would be jeopardized by disclosure of information pertaining to the person's current or intended address or location.

3. Evidence; records. Rules and orders under this section may address the sealing, disclosure and redaction of evidence and records, including circumstances in which the information to be treated as confidential is a material fact necessary to the proceeding.

Sec. 2. 22 MRSA §4007, sub-§1-A is enacted to read:

1-A. Nondisclosure of certain identifying information. This subsection governs the disclosure of certain identifying information.

A. At each proceeding, the court shall inquire whether there are any court orders in effect at the time of the proceeding that prohibit contact between the parties and participants. If such an order is in effect at the time of the proceeding, the court shall keep records that pertain to the protected person's current or intended address or location confidential, subject to disclosure only as authorized in this section. Any records in the file that contain such information must be sealed by the clerk and not disclosed to other parties or their attorneys or authorized agents unless the court orders the disclosure to be made after a hearing in which the court takes into consideration the health, safety or liberty of the protected person and determines that the disclosure is in the interests of justice.

B. If, at any stage of the proceedings, a party or a participant alleges in an affidavit or a pleading under oath that the health, safety or liberty of the person would be jeopardized by disclosure of information pertaining to the person's current or intended address or location, the court shall keep records that contain the information confidential, subject to disclosure only as authorized in this section. Upon receipt of the affidavit or pleading, the records in the file that contain such information must be sealed by the clerk and not disclosed to other parties or participants or their attorneys or authorized agents unless the court orders the disclosure to be made after a hearing in which the court takes into consideration the health, safety or liberty of the person seeking protection and determines that the disclosure is in the interests of justice.

C. If the current or intended address or location of a party or participant is required to be kept confidential under paragraph A or B, and the current or intended address or location of that person is a material fact necessary to the proceeding, the court shall hear the evidence outside of the presence of the person and the person's attorney from whom the information is being kept confidential unless the court determines after a hearing that takes into consideration the health, safety or liberty of the protected person that the exclusion of the party or participant is not in the interests of justice. If such evidence is taken outside the presence of a party or participant, the court shall take measures to prevent the excluded person and the person's attorney from accessing the recorded information and the information must be redacted in printed transcripts.

D. Records that are required to be maintained by the court as confidential under this subsection may be disclosed to:

(1) A state agency if necessary to carry out the statutory function of that agency;

(2) A guardian ad litem appointed to the case; or

(3) A criminal justice agency, as defined by Title 16, section 611, if necessary to carry out the administration of criminal justice or the administration of juvenile justice, and such disclosure is otherwise permitted pursuant to section 4008.

In making such disclosure, the court shall order the party receiving the information to maintain the information as confidential.

Effective September 20, 2007